

REMARKS/ARGUMENTS

Examiner's first rejection

The Examiner has rejected claims 1-3 under 35 U.S.C. 102(b) as being anticipated by Ward (US 4,953,567). The Applicant disagrees with this reasoning, as detailed below.

The prior art reference, Ward, does not have a plurality of holes on either the mouthpiece or the earpiece portions. The Examiner states that these are inherently present. However, it is simply not suggested in the Ward prior art reference, nor is it readily apparent that such an element is inherently present. It may be that this item is not present but instead, the sound travels through the material because the material vibrates rather than have the sound waves pass through it.

Therefore, the applicant believes he has traversed this rejection for claim 1, the broadest claim in this basis for rejection. With that, the applicant hereby requests that claim 1 be allowed as written.

Claims 2-3 are directly or indirectly derivative of claim 1. As claims that are derivative of a claim that is believed to be in condition for allowance, claims 2-3 also are in condition for allowance due to the fact they contain all limitations inherent in the base claim. Therefore, applicant believes she has traversed this rejection as well for claims 2-3.

Examiner's second rejection

The Examiner has rejected claims 1 and 3 under 35 U.S.C. 102(b) as being anticipated by Trowbridge, Jr. (US 4,964,161). The Applicant disagrees with this reasoning, as detailed below.

By modifying the claim language to "consisting" instead of "comprising," applicant is believed to have successfully traversed this basis for rejection. The Trowbridge, Jr., prior art

reference includes other items that are not present in the present invention, such as speaker filter elements and earpiece filter elements.

Claim 3 is directly or indirectly derivative of claim 1. As a claim that is derivative of a claim that is believed to be in condition for allowance, claim 3 also is in condition for allowance due to the fact it contains all limitations inherent in the base claim. Therefore, applicant believes she has traversed this rejection as well for claim 3.

Examiner's third rejection

The Examiner has rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Trowbridge, Jr. in view of Ward. The Applicant disagrees with this reasoning, as detailed below.

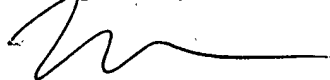
The tear-away cover in the present invention is structurally different than in the Ward prior art reference. In the Ward prior art reference, the cover appears attached to the top end of the phone cover, near the ear piece, and is used to dial numbers on a telephone while still attached to the phone cover. It is then removed after use. In the present invention, the tear-away cover appears to be attached to the bottom end of the phone, near the mouth piece, and is designed to be torn away, first, prior to use. As a result, the Ward prior art reference discloses a tear-away cover that is too structurally different than the tear-away cover in the present invention, and it therefore would not be obvious to combine Ward with Trowbridge, Jr., in the manner suggested, to arrive at the present invention.

Therefore, the applicant believes he has traversed this rejection for claim 2, the broadest claim in this basis for rejection. With that, the applicant hereby requests that claim 2 be allowed as written.

CONCLUSION

For all of the above-described reasons, applicant submits that the specifications and claims are now in proper form, and that the claims define patentability over the prior art. In addition, applicant believes that her arguments in the "Remarks" section successfully traverses the objections and rejections brought forth by the Examiner in the Office Action. Therefore, the applicant respectfully submits that this application is now in condition for allowance, which action she respectfully solicits. If the Examiner feels that some of the dependent claims are allowable, the Applicant asks the Examiner to allow the Applicant to make any amendments to the allowed claims to incorporate all the limitations of the base claim and any intervening claims.

Respectfully Submitted,



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